

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-5061-2016(O&M)

Date of Decision: July 31, 2023

MURTI DEVI AND ORS.

.....Petitioners

Versus

STATE OF HARYANA AND ORS.

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Akshay Jindal, Advocate for petitioners.

Mr. Sachin Mittal, Advocate and
Ms. Seemantika Jindal, Advocate for respondent No.4.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate and
Mr. Sidhanth Arora, Advocate for respondent No.3.

Mr. Shivendra Swaroop, DAG Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 30.05.2016 passed by the Executing Court-cum-Addl. District Judge, Gurugram whereby the execution petition filed at the instance of petitioners-landowners has been disposed of being fully satisfied.

2. Briefly stated, the land owned by predecessor-in-interest of the petitioners namely Ram Kanwar, situated in Village Kanhai, District, Gurugram was acquired vide notifications dated 05.05.1997 and 04.04.1998 issued under sections 4 and 6 of the Land Acquisition Act, 1894, (hereinafter referred to as 1894 Act) respectively. Award under Section 11 was announced by the Collector on 30.05.2000 whereby the market value of the acquired land was assessed at Rs.12 lakhs per

acre. Being dissatisfied, Reference under section 18 was invoked which came to be decided on 15.06.2002.

3. Aggrieved thereof, an appeal was filed before this Court vide RFA-4711-2003 which was decided on 24.04.2006, whereby the matter was remanded back for its redetermination by the Reference Court. Upon remand, the Reference Court assessed the market value at Rs.717/- per square yard vide its award dated 06.05.2008. In the meanwhile, the predecessor-in-interest of petitioner who was looking after the proceedings, unfortunately expired on 17.08.2007 and the petitioners could not approach this Court against the award dated 06.05.2008.

4. Some other landowners whose land was acquired vide same notification came up before this Court besides the respondents also having challenged the award dated 06.05.2008 passed in favour of the predecessor-in-interest of the petitioners in LAC No.864 of 04.12.2000 and those appeals including RFA-1115-2009 filed at the instance of respondents herein were disposed of by this Court vide judgment dated 01.10.2010 and the landowners pertaining to the same acquisition were held entitled for compensation @Rs.1216/- per square yard.

5. Relying upon the aforesaid decision dated 01.10.2010 passed by this Court in RFA-1115-2009, the petitioners herein filed execution petitions which have been disposed of by the executing Court without granting them the benefit of enhancement awarded @ Rs.1216/- per square yard.

6. Impugning the aforesaid decision, learned counsel for the petitioners submits that though, no appeal was filed at their instance against decision dated 06.05.2008, however, in the appeal filed at the instance of respondents against the predecessor-in-interest of petitioners qua the same award, they being landowners were held entitled for compensation @ Rs.1216/- per square yard and thus the same benefit was required to be granted/released in favour of the petitioners.

7. On the other hand, learned State counsel vehemently opposes the prayer made in the present petition while submitting that petitioners never assailed the order dated 06.05.2008 passed by Reference Court whereby the market value was awarded @Rs.717/- per square yard and thus, they cannot be awarded compensation @ Rs.1216/- per square yards assessed by this Court vide its judgment dated 01.10.2010.

8. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

9. In the present case, the Reference Court vide its award dated 06.05.2008 passed in LAC No.864 dated 04.12.2000 enhanced the market value to Rs.717/- per square yard, however, on account of unfortunate demise of their predecessor-in-interest namely Ram Kanwar, the petitioners could not approach this Court by way of filing Regular First Appeal, however, the respondents herein assailed that very award dated 06.05.2008 passed in favour of the predecessor-in-

interest of petitioners by way of filing RFA bearing No.RFA-1115-2009 which was disposed of vide judgment dated 01.10.2010, in terms of judgment passed in RFA-1824-2006. The operative part thereof is reproduced hereunder:-

63. To sum up, it is held that for the land acquired vide notifications dated 5.5.1997 and 15.5.1997, the land owners shall be entitled to compensation @ ` 1,216/- per square yard, whereas for the land acquired vide notification dated 8.9.1997, the land owners shall be entitled to compensation @ ` 1,520/- per square yard. They shall also be entitled to all the statutory benefits available to them under the Act. The land owners, whose sale deeds are part of the acquired land, they shall get the same amount of compensation as depicted in the sale deeds.”

10. A perusal of the aforesaid determination shows that all the landowners were held entitled for market value/compensation @Rs.1216/- per square yard besides other statutory benefits and thus the petitioners/landowners who inherited the estate of deceased Ram Kanwar were also entitled for similar amount of compensation @ Rs.1216/- per square yard and the Executing Court went wrong while disposing of the execution petition being fully satisfied.

11. Moreover, on perusal of memo of parties in RFA-1115-2009 filed at the instance of respondent-HSVP (HUDA as it then was), one can trace out that though having expired, the predecessor-in-interest of petitioners namely Ram Kanwar was impleaded as respondent by his name only, without bringing on record his legal heirs i.e. the petitioners which even otherwise deprived them of their right to file cross-objections to the appeal filed at the instance of respondents herein.

Thus the respondents can not even be permitted to draw the benefit of

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their own wrong of not having impleaded the petitioners being the legal heirs of deceased Ram Kanwar at the time of filing of RFA-1115-2009.

12. Resultantly, in view of the discussions made hereinabove, the impugned order dated 30.05.2016 passed by the Executing Court is hereby set aside with a direction to restore the execution application No.104-2015 titled as “Murti Devi and Ors. Vs. State of Haryana and Ors” to its original number and permit the petitioners as well as respondent No.4 to pursue the same towards their right to receive amount of compensation @ Rs.1216/- per square yard besides other statutory benefits as awarded vide decision dated 01.10.2010 passed in RFA-1115-2009.

13. The present petition stands allowed.

14. Pending application(s), if any, shall also stand disposed of.

31.07.2023

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(**HARKESH MANUJA**)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

